

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

CHRISTOPHER HUDSON,

Plaintiff,

v.

Case No. 3:15cv128-MPM-SAA

NFL PLAYERS ASSOCIATION,
ADMINSTRATOR OF THE
BERT BELL/PETE ROZELLE NFL
PLAYER RETIREMENT PLAN,

Defendant.

COMPLAINT

I. INTRODUCTION

This civil action is brought by Plaintiff Christopher Hudson against Defendants NFL Players Association, Administrator of the Bert Bell/Pete Rozelle NFL Player Retirement Plan (“Retirement Board” or “Board”) to remedy violations of Section 502 of the Employee Retirement Income Security Act (“ERISA”), as codified at 29 U.S.C. § 1132. As set forth below, Defendants unlawfully misclassified Mr. Hudson’s claim for benefits under the Plan in violation of Section 502 of ERISA. In support, Mr. Hudson more specifically states as follows:

II. JURISDICTION

1. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e) to adjudicate Plaintiff’s claims filed under ERISA.
2. With particular respect to Plaintiff’s Section 502 claim, ERISA provides (by

statute and regulations) a mechanism for administrative and/or internal appeal of benefit denials. In this case, Plaintiff has exhausted all such administrative and/or internal appeals. Therefore, Plaintiff's Section 502 under ERISA is properly before the Court for judicial review.

III. THE PARTIES

3. Plaintiff Christopher Hudson is an adult citizen of the United States and at all pertinent times herein has resided in DeSoto County, Mississippi.

4. Defendant NFL Players Association, administrator of the Burt Bell/Pete Rozelle NFL Player Retirement Plan, is headquartered and has its place of business in Washington, D.C.

IV. FACTS

5. Since 1994, the Bert Bell/Pete Rozelle NFL Player Retirement Plan has provided retirement, disability, and related benefits to eligible professional football players. The Plan has been amended multiple times over the years. Relevant to this lawsuit is the Plan as Amended and Restated as of April 1, 2009. A true and accurate copy of this Plan is attached hereto as Exhibit A.

6. Under the terms of the Plan, Defendant administered the Plan and retained the sole authority to grant or deny benefits to applicants.

7. Article 1.36 of the Plan defines "Vested Inactive Player" to mean a "Vested Player who is not an Active Player."

8. Article 1.37 of the Plan defines "Vested Player" as a Player who "(a) earns five Credited seasons..."

9. Article 2 address Eligibility under the Plan. Article 2 provides, "All Players participate in the Plan."

10. Article 5 addresses Total and Permanent Disability benefits. Article 5.1 defines “Eligibility and Amount” as follows: “Any active Player or Vested Inactive Player...who is not receiving retirement benefits and is determined by the Retirement Board or the Disability Initial Claims Committee to be totally and permanently disabled as defined in section 5.2, and who satisfies the other requirements of this Article 5, will receive a monthly total and permanent disability (“T&P”) benefit for the months described in sections 5.6 and 5.7...”

11. Section 5.1 also provides four categories of T&P benefits, two of which are relevant. First, Section 5.1(c) provides for Football Degenerative benefits as follows: “The monthly total and permanent disability benefits will be no less than \$4,000 if the disability(ies) arises out of League football activities, and results in total and permanent disability before fifteen years after the end of the Player’s last Credited Season.” Section 5.1(d) provides for Inactive benefits as follows: “This category applies if (1) the total and permanent disability arises from other than league football activities while the Player is a Vested Inactive Player, or (2) the disability(ies) arises out of League football activities and results in total and permanent disability fifteen or more years after the end of the Player’s last Credited Season. The minimum benefits provided under this Section 5.1(d) will be offset by any disability benefits provided by an employer other than the League or an Employer, but will not be offset by worker’s compensation.”

12. Section 5.2(a) provides that “An eligible Player will be deemed to be totally and permanently disabled if the Retirement Board or the Disability Initial Claims committee finds that he has become totally disabled to the extent that he is substantially prevented from or

substantially unable to engage in any occupation or employment for remuneration or profit, but expressly excluding any disability suffered while in the military service of any country...”

13. Section 5.5(a), Initial Classification, provides “Classification of total and permanent disability benefits under Section 5.1 will be determined by the Retirement Board or the Disability initial Claims Committee in all cases on the facts and circumstances in the administrative record...”

14. Section 5.5(b), Reclassification, states: “A Player who becomes totally and permanently disabled and who satisfies the conditions of eligibility for benefits under Section 5.1(a), 5.1(b), 5.1(c), or 5.1(d) will be deemed to continue to be eligible only for the category of benefits for which he first qualifies, unless the Player shows by evidence found by the Retirement board or the Disability Initial Claims Committee to be clear and convincing that, because of changed circumstances, the Player satisfies the conditions of eligibility for a benefit under a different category of total and permanent disability benefits...”

15. Mr. Hudson is a 42 year old retired professional football player.¹ He began his career in the NFL with the Jacksonville Jaguars in 1995. He played until 1999, when he was traded to the Chicago Bears. After one year, Mr. Hudson played for the Atlanta Falcons, with whom he finished his career. Mr. Hudson retired from the NFL in 2003.

16. Over the course of his career, Mr. Hudson incurred significant hits to the head, many of which resulted in the loss of consciousness.

17. In 2005, Mr. Hudson began complaining of headaches, dizziness, ringing of the ears and blurred vision. These problems worsened in 2008, when he began experiencing

increased anxiety, poor decision making, inability to sit still for long periods of time, sleep problems decreased ability to concentrate, social withdrawal, forgetting the names of familiar people, increased occurrence of headaches, and sensitivity to lights.

18. On May 12, 2011, Mr. Hudson was awarded Inactive total and Permanent Disability benefits effective January 1, 2010 for depression and cognitive impairments, despite significant evidence presented regarding his Traumatic Brain Injury and postconcussion disorder arising out of League activity.

19. At Defendant's November 16, 2011 meeting, the Board denied Mr. Hudson's appeal for reclassification because it determined that his disability conditions did not arise out of League football activities.

20. Mr. Hudson's Social Security Disability benefits were approved May 5, 2014, finding that he was disabled as of December 31, 2009. The Social Security Administration noted the following severe impairments: traumatic brain injury sequelae (posttraumatic headaches and cognitive disorder), musculoskeletal disorders, joint arthropathies, and affective mood disorder.

21. On September 16, 2014, appealed Defendant's decision, providing supporting documentation regarding his disability conditions that arose out of League football activities.

22. On October 8, 2014, the Disability Initial Claims committee considered his request and denied his request for reclassification of T&P benefits, finding that Mr. Hudson's condition did not arise out of League football activities.

23. On March 27, 2015, Mr. Hudson submitted an appeal to the Committee requesting that they approve his request to reclassify his benefits in the "Football Degenerative

¹ Section 1.29 defines "Player" as "any person who is or was employed under a contract by an

Activity.”

24. In his appeal, Mr. Hudson presented significant medical evidence supporting his claim that his disability is a Traumatic Brain Injury resulting from repeated episodes of head trauma as an NFL Player, and that depression and the cognitive impairments on which the Board based his benefits are symptoms of the TBI and postconcussive disorder.

25. On May 21, 2015, the Board denied Mr. Hudson’s appeal, stating that “clear and convincing” evidence of “changed circumstances” warranting “a different category of total and permanent disability benefits” did not exist. (Exhibit B). Further, the Board stated that the original award of T&P benefits in November 2011 was based on depression and cognitive impairments, and his current classification is based on cognitive impairments.

26. In its denial, the Board did not consider any of the medical evidence presented by Mr. Hudson. In this final denial, the Board notified Mr. Hudson that he had exhausted his administrative remedies.

V. CAUSES OF ACTION

27. Plaintiff incorporates the foregoing paragraphs and would state that Defendants wrongfully categorized Plaintiff’s claim for benefits under the Plan as “depression and cognitive,” instead of “Football Degenerative.” As such, pursuant to 29 U.S.C. § 1132, Plaintiff brings this action to recover benefits due to Plaintiff under the terms of the Plan and/or to enforce his rights under the terms of the Plan and/or to clarify Plaintiff’s rights to benefits under the terms of the Plan.

VI. PRAYER FOR RELIEF

employer to play football in the league...”

WHEREFORE, Plaintiff prays that:

1. this Court enter a declaratory judgment reversing Defendants' decision to classify Plaintiff's claim for benefits under the Plan as "depression and cognitive impairments" and declaring that Plaintiff is entitled to "Football Degenerative" benefits under the Plan;
2. this Court order Defendants to provide Plaintiff with all of the benefits to which he is entitled to receive under the Plan and any such other equitable relief available;
3. this Court award Plaintiff reasonable attorney's fees, reimbursement for costs and expenses, and any expert witness fees, as provided by ERISA and/or federal law;
4. Plaintiff be awarded pre-judgment interest and post-judgment interest on all benefits awarded to Plaintiff; and,
5. Plaintiff further seeks any and all other equitable and general relief as deemed just and necessary by the Court.

Respectfully submitted,

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